

# Senate Study Bill 3149

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL BY  
CO=CHAIRPERSON MILLER)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to landlords and tenants including notice  
2 requirements to terminate a periodic tenancy, representation  
3 of an owner of residential rental property in small claims  
4 court, and service of a petition for forcible entry and  
5 detainer by publication.  
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
7 TLSB 6073SK 81  
8 kk/gg/14

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1 1 Section 1. Section 562A.34, Code 2005, is amended by  
1 2 adding the following new subsection:  
1 3 NEW SUBSECTION. 2A. The landlord or the tenant may  
1 4 terminate a tenancy having a term longer than month-to-month  
1 5 by a written notice given to the other at least thirty days  
1 6 prior to the end of the term of the tenancy specified in the  
1 7 notice.  
1 8 Sec. 2. Section 631.14, Code 2005, is amended to read as  
1 9 follows:  
1 10 631.14 REPRESENTATION IN SMALL CLAIMS ACTIONS.  
1 11 1. Actions constituting small claims may be brought or  
1 12 defended by an individual, partnership, association,  
1 13 corporation, or other entity. In actions in which a person  
1 14 other than an individual is a party, that person may be  
1 15 represented by an officer or an employee.  
1 16 2. In actions concerning residential rental property that  
1 17 is titled in the name of one or more individuals, an employee  
1 18 of one or more of the titled owners, or an officer or employee  
1 19 of a property management entity acting on behalf of one or  
1 20 more of the titled owners, may bring or defend an action in  
1 21 the name of the titled owners, the property management entity,  
1 22 or the name by which the property is commonly known.  
1 23 Notwithstanding any other provision to the contrary, if the  
1 24 defendant or plaintiff has been improperly named in the  
1 25 petition in an action concerning residential rental property,  
1 26 the real party in interest shall be substituted at the time  
1 27 the error is identified and the action shall not be dismissed  
1 28 or delayed except to the extent necessary to identify and  
1 29 serve the real parties in interest.  
1 30 3. A person who in the regular course of business takes  
1 31 assignments of instruments or accounts pursuant to chapter  
1 32 539, which assignments constitute small claims, may bring an  
1 33 action on an assigned instrument or account in the person's  
1 34 own name and need not be represented by an attorney, provided  
1 35 that in an action brought to recover payment on a dishonored  
2 1 check or draft, as defined in section 554.3104, the action is  
2 2 brought in the county of residence of the maker of the check  
2 3 or draft or in the county where the draft or check was first  
2 4 presented. Any person, however, may be represented in a small  
2 5 claims action by an attorney.  
2 6 Sec. 3. Section 648.10, Code 2005, is amended to read as  
2 7 follows:  
2 8 648.10 SERVICE BY PUBLICATION.  
2 9 Notwithstanding the requirements of section 648.5, service  
2 10 may be made by publishing such notice for one week in a  
2 11 newspaper of general circulation published in the county where  
2 12 the petition is filed, provided the petitioner files with the  
2 13 court an affidavit stating that an attempt at personal service

2 14 made by the sheriff was unsuccessful because the defendant is  
2 15 avoiding service by concealment or otherwise, and that a copy  
2 16 of the petition and notice of hearing has been mailed to the  
2 17 defendant at the defendant's last known address or that the  
2 18 defendant's last known address is not known to the petitioner.  
2 19 Service under this section is complete seven days after  
2 20 publication. The court shall set a new hearing date if  
2 21 necessary to allow the defendant the three-day minimum notice  
2 22 required under section 648.5.

2 23 EXPLANATION

2 24 This bill relates to landlords and tenants by providing for  
2 25 notice requirements to terminate a periodic tenancy,  
2 26 representation of an owner of a rental property in small  
2 27 claims court, and service of a petition for forcible entry and  
2 28 detainer by publication.

2 29 The bill provides that either a landlord or a tenant may  
2 30 terminate a periodic tenancy that is for a term longer than  
2 31 month-to-month by giving a written notice to the other at  
2 32 least 30 days prior to the end of the term of the tenancy.

2 33 In an action brought in small claims court concerning a  
2 34 residential rental property that is titled in the name of one  
2 35 or more individuals, an employee of one or more of the titled  
3 1 owners or an officer or employee of a property management  
3 2 entity acting on behalf of a titled owner may bring or defend  
3 3 an action in small claims court in the name of the titled  
3 4 owners, the name of the property management entity, or the  
3 5 name by which the property is commonly known. If in such an  
3 6 action either the plaintiff or defendant has been improperly  
3 7 named in the petition, the court shall substitute the correct  
3 8 real party in interest in the action and the action shall not  
3 9 be delayed or dismissed except as necessary to identify and  
3 10 serve the correct parties to the action.

3 11 The bill removes a requirement relating to the service of a  
3 12 petition for a forcible entry and detainer action by  
3 13 publication. Under current law, a petition for a forcible  
3 14 entry and detainer action must be personally served on the  
3 15 defendant but does not restrict the performance of the  
3 16 personal service to the sheriff only. However, current law  
3 17 provides that if personal service is unsuccessful, then  
3 18 service of the petition may be made by publication in a  
3 19 newspaper of general circulation but only if an affidavit is  
3 20 filed with the court stating that "the sheriff" was  
3 21 unsuccessful at obtaining personal service. The bill strikes  
3 22 the requirement that the affidavit for service by publication  
3 23 state that service was unsuccessfully "made by the sheriff" to  
3 24 address the inconsistency.

3 25 LSB 6073SK 81

3 26 kk:nh/gg/14